

Environmental Assessment – Appendix II

Temporary Forbearance of a Water Right Entitlement Held by the
Orange Cove Irrigation District on Mill Creek, Tehama County, California

Environmental Assessment

APPENDIX II

LMMWC, CDFG and CDWR Lease and Exchange Agreements

- LMMWC and CDFG Mill Creek Water Right Lease Agreement.
- LMMWC, CDFG and CDWR Water Exchange Agreement.

AGREEMENT BETWEEN THE STATE OF CALIFORNIA, THE L03 MOLINOS
MUTUAL WATER COMPANY, AND JONES PRUNE ORCHARDS, INC. FOR
THE USE OF SURFACE WATER FOR FISHERIES RESTORATION ON
MILL CREEK IN TEHAMA COUNTY, CALIFORNIA

THIS AGREEMENT, made this 1st day of March 1996, is between the State of California acting by and through its Department of Fish and Game and Department of Water Resources (hereinafter individually referred to as "Fish and Game" and "Water Resources," and collectively referred to as "the State"), the Los Molinos Mutual Water Company, acting through its Board of Directors (hereinafter referred to as "Water Company"), and Jones Prune Orchards, Inc. (hereinafter referred to as "Jones, Inc.").

Background of the Agreement. THIS AGREEMENT is entered into in light of the following facts and circumstances:

A. An existing Agreement between the State and the Water Company (hereinafter referred to as Contract No. B-58268) provides the background, terms and conditions for the construction, operation, and maintenance of a fisheries restoration project on Mill Creek in Tehama County. These parties wish to continue the process of restoring chinook salmon and steelhead habitat in Lower Mill Creek that was initiated under Contract No. B-58268.

B. Jones, Inc. is a landowner within the service area of the Water Company. Jones, Inc. has water rights to a portion of the flow in Mill Creek based on Decree 3811 Superior Court, County of Tehama, August 1920.

C. Fish and Game desires to use the water under Jones, Inc. water rights, and Jones Inc. desires to allow Fish and Game to use such water to increase as needed the transport flows available under Contract B-58268. The water made available under this Agreement will be available independently of the continuation of contract No. B-58268.

D. Fish and Game has previously purchased 2,000 acre-feet of Mill Creek surface flow from Jones, Inc., pursuant to the Emergency Drought Relief Program of 1991.

E. Jones Inc., the Water Company, and the State have voluntarily cooperated in the exchange of flows in Mill Creek to provide transport flows for migrating salmon since may 1992.

NOW, THEREFORE, the parties agree as follows:

1. Jones, Inc. shall forego the delivery and use of its water available under its water rights in Mill Creek, for the term of this Agreement.

Environmental Assessment – Appendix II

2. Jones, Inc. shall allow the State of California to use 100 percent of the water available to Jones, Inc. under its water rights in mill Creek, for the term of this Agreement.

3. Water Resources shall pay Jones, Inc. \$103,750, upon final inspection of the completed well and submittal of an invoice for construction of the well, in triplicate, to Department of Water Resources, Attention Stacy Cepello, 2440 Main Street, Red Bluff, California 96080-2398. This payment constitutes fulfillment in part of the obligations of Water Resources under the Delta Pumping Plant Fish Protection Agreement.

4. Water Company shall consider Jones, Inc.'s water, deliverable to, Tones under its water rights, as additive to the quantity of natural flow it will make available to Fish and Game under Paragraph 5 of Contract No. H-58268.

5. Upon request of Fish and Game, Water Company shall release to Mill Creek a flow equivalent to Jones, Inc.'s allocated surface water in addition to flows under Contract No. B-58268.

6. Fish and Game may request that water in excess of the State's instantaneous capacity in Contract No. B-58268 plus Jones, Inc.'s water, remain in Mill Creek for transport purposes. Water Company, in its discretion, may allow such additional water to remain instream, in exchange for an equivalent amount of pumped groundwater to be supplied from the wells designated in Contract No. B-58268 within three years of the time the request is made. Such arrangements may be made only upon mutual consent of Fish and Game, Water Resources and Water Company.

7. In further consideration for the Agreement, if available under its decreed rights, Water Company shall provide a minimum of 10 cubic feet per second in addition to the state's instantaneous capacity for fall-run chinook immigration and spawning and spring-run chinook juvenile migration. Water Company shall release such water upon Fish and Game's request on or after October 15. Water Company shall allow such water to continue to flow uninterrupted for the remainder of that calendar year. Water Company shall have no obligations under this paragraph except and to the extent its water rights permit its use of the water aile described in this paragraph. If Water Company does not have such water available, such inability will not result in the termination of this Agreement.

8. The agreement shall become effective upon approval by the Department of General Services. This Agreement will terminate on May 31, 2007. Prior to expiration of the initial term, the parties may extend the agreement for five years and may renegotiate compensation to Jones, Inc. For operation, maintenance, equipment replacement costs and fees associated with replacing flow from Mill Creek,

Environmental Assessment – Appendix II

9. The terms and conditions of the agreement may be amended or modified by the written consent of all the parties.

10. If Jones, Inc. sells, assigns, or transfers its right, title, or interest in its land or water rights under the Superior Court Decree 3811 referred to in Paragraph 8 above, the assignee or successor in interest shall be subject to the rights and obligations of Jones, Inc. under the Agreement.

11. Jones, Inc., its successors and assigns, shall remain responsible for all applicable fees, charges and expenses of Water Company levied, assessed or charged for water service, operation and maintenance, which are allocable to Jones, Inc., as if Jones, Inc. continued to use its decreed surface water supplies. Water Company shall not be bound by the terms hereof if said amounts are not paid when due in accordance with Water company's bylaws and rules.

12. The parties agree that Water Company does not by this Agreement admit any responsibility or obligation with regard to the fishery of Mill Creek and that Fish and Game does not by the agreement waive any regulatory authority it may have with respect to that fishery, including Section 5937 of the Fish and Game Code or under the Public Trust Doctrine. The parties do not by this agreement waive or relinquish any rights held under the Mill Creek Decree referred to above and no party shall assert that these agreements constitute a change, waiver or relinquishment of water rights as defined in said decree.

13. Any notice required to be given by this Agreement shall be deemed to have been given by the notifying party when mailed, postage prepaid or delivered to the following:

Director
and
Inland Fisheries Division Chief
Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, California 95814

Director
and
Contract Services Office Department of Water Resources
Post Office Box 942836
Sacramento, California 94236-0001

President
Jones Prune Orchards, Inc.
25120 Fourth Avenue


Environmental Assessment – Appendix II
Los Molinos, California 96055

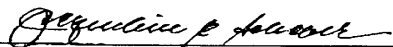
General Manager
Los Molinos Mutual Water Company
25162 Josephine
Los Molinos, California 96055

14. The standard clauses attached hereto as Exhibit A are included and made part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

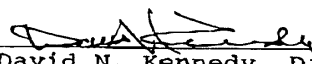
Approved as to Legal form
and sufficiency:

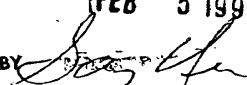

Craig Manson, General Counsel
Department of Fish and Game

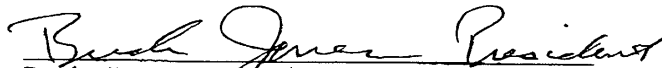

Jacqueline E. Schafer, Director
Department of Fish and Game
State of California

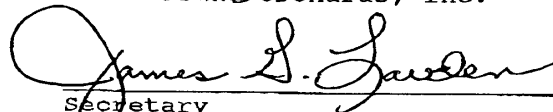
Approved as to legal form
and sufficiency:

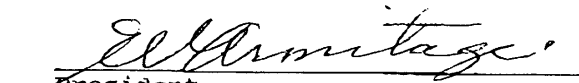

David N. Kennedy, Director
Department of Water Resources
State of California


David N. Kennedy, Director
Department of Water Resources
State of California

FORM	POLICY	BUDGET
Department of General Services		
APPROVED		
FEB 5 1997		
BY  Asst. Chief Counsel		


Buck Jones, President
Jones Prune Orchards, Inc.


James S. Gaudin
Secretary
Los Molinos Mutual Water Company


El Armitage
President
Los Molinos Mutual Water Company

Environmental Assessment – Appendix II

State of California

DEPARTMENT OF WATER RESOURCES

The Resources Agency

Agreement No. B -75931

Exhibit A

STANDARD CLAUSES

SERVICE & CONSULTANT SERVICE CONTRACTS FOR 55,000 & OVER WITH NONPUBLIC ENTITIES

Workers' Compensation Clause. Contractor affirms that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor affirms that it **will** comply with such provisions before commencing the performance of the work under this contract.

Claims Dispute Clause. Any claim that Contractor may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources, within thirty days of its accrual. State and Contractor shall then attempt to negotiate a resolution of such claim and process an amendment to this agreement to implement the terms of any such resolution.

National Labor Relations Board Clause In accordance with Public Contract Code Section 10296, Contractor declares under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the national Labor Relations Board.

Nondiscrimination Clause. During the performance of this contract the recipient, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of religion, color, ethnic group identification, sex age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex, Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated hereunder (California Administrative Code, Title 2, Sections 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135 - 11139.5), and the regulations or standards adopted by the awarding State agency to implement such article. Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing and the awarding State agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice to such of its books, records, accounts, other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Recipient, Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

Statement of Compliance. The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103,

Performance Evaluation. For consulting service agreements, Contractor's performance under this contract will be evaluated after completion. A negative evaluation will be filed with the Department of General Services.

Availability of Funds. Work to be performed under this contract is subject to availability of funds through the State's normal budget process.

Audit Clause. For contracts in excess of \$10,000 the contracting parties shall be subject to the examination and audit of the State Auditor for a period of three years after final payment under the contract. (Government Code Section 8546.7).

Payment Retention Clause. Ten percent of any progress payments that may be provided for under this contract shall be withheld per Public Contract Code Sections 10346 and 10379 pending satisfactory completion of all services under the contract.

Reimbursement Clause. If applicable, travel and per diem expenses to be reimbursed under this contract shall be at the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations. Contractor's designated headquarters for the purpose of computing such expenses shall be:

Termination Clause. The State may terminate this contract without cause upon 30 days' advance written notice. The Contractor shall be reimbursed for all reasonable expenses incurred up to the date of termination.

Minority/Women/Disabled Veteran Business Enterprise Participation Requirement Audit Clause. Contractor or vendor agrees that the awarding department or its delegates will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor or vendor agrees to provide the awarding department or its delegates access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with public Contract Code Section 10115 et seq. Contractor or vendor further agrees to maintain such records for a period of three (3) years after final payment under the contract. Title 2 CCR Section 1896.75.

Priority Hiring Considerations. For contracts in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Welfare and Institutions Code Section 11200. (Public Contract Code Section 10353).

AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND
LOS MOLINOS MUTUAL WATER COMPANY FOR CONSTRUCTION,
OPERATION, AND MAINTENANCE OF A FISHERIES RESTORATION PROJECT
ON MILL CREEK IN TEHAMA COUNTY

This agreement, commencing May 1, 1990, is between the State of California ("State"), acting by and through its Department of Water Resources and Department of Fish and Game, (hereinafter called "Water Resources" and "Fish and Game"), and the *Los Molinos Mutual Water Company*, acting through its Board of Directors, (hereinafter called "Water Company").

Background of the agreement. This agreement is entered into in light of the following facts and circumstances:

A. The Water Company has substantial rights to water from Mill Creek, a tributary of the Sacramento River. The Water Company serves approximately 7,000 acres of land located within Tehama County.

B. Water Resources is a division of the State of California, and has obligations to mitigate for adverse impacts on the salmon and steelhead caused by the State Water Project and has responsibility for the planning, investigation, and coordination of the development of the water resources of the State.

C. Fish and Game is a division of the State of California and has regulatory duties to protect and conserve the fish and wildlife resources of the state. This Department is responsible for the planning, investigation and coordination of management activities to enhance the fishery resources of the state.

D. Water Resources and Fish and Game are concerned about the status of anadromous fish in Mill Creek, particularly its spring-run of chinook salmon and wild populations of steelhead.

E. In the late spring of some years, during the upstream migration of adult spring-run salmon and downstream migration of juvenile salmon and steelhead, flows in lower Mill Creek below the Water Company dams are inadequate to supply enough water to transport these fish from the Sacramento River to upper Mill Creek and from upper Mill Creek to the Sacramento River, while also supplying the quantities of water which the Water Company diverts.

F. All parties to this agreement mutually desire to provide increased flows for fisheries transportation purposes without changing the legal status of any party's position with regard to water rights.

Environmental Assessment – Appendix II

G. Water Resources and Fish and Game desire to construct wells to pump ground water into the Water Company's canals in exchange for which the Water Company will decrease diversions from Mill Creek to improve instream flows for fisheries transportation purposes.

Now, therefore, the parties do agree as follows:

1. Water Resources and Fish and Game will have full responsibility and authority for, and will pay all costs associated with, the design and construction, operation, and maintenance of wells with a capacity of up to 11,250 gpm (25 cfs) for the purpose of increasing flows in Mill Creek for fisheries transportation. Attachment A shows the location of the first two wells, Test Well 2261 and Well 1481.
2. Water Resources and Fish and Game will be responsible for obtaining all rights of way, permits, environmental documentation, and other actions needed to design, construct, operate, and maintain the wells.
3. Fish and Game will be responsible for monitoring and evaluating the effects of this agreement on fishery populations in Mill Creek.
4. Fish and Game will be responsible for establishing the times and the amounts of water that are desirable to remain in lower Mill Creek for fisheries transportation purposes.
5. Upon request of Fish and Game, the Water Company agrees to provide, within its ability to supply natural flows, an amount equal to the instantaneous capacity of States installed wells of its decreed water rights for flows for fisheries transportation purposes in, lower Mill Creek, in exchange for an equivalent amount of ground water to be delivered directly into the Water Company canal system. No costs associated with this water transaction for fisheries transportation purposes will be borne by the Water Company.
6. There may be times when the fish flow requirements exceed the instantaneous capacity of the State's wells or when Fish and Game requests that water remain in Mill Creek for purposes other than the transportation of salmon and steelhead. In either event, the Water Company may, in its sole discretion, when requested by Fish and Game, allow water to remain in lower Mill Creek in an amount greater than the instantaneous capacity of State's wells, in exchange for an equivalent amount of pumped ground water to be supplied within three years of the time the request is made. Such arrangements may be made only upon mutual consent of Water Resources, Fish and Game and the Water Company. No costs associated with discretionary water provided under this paragraph will be borne by the Water Company.
7. In the interest of being a good neighbor, and subject to the State's ability to supply water from the pumps, the State will approve use of water from the pumps by the Water Company to maintain already-planted crops in a drought year as long as the. Company pays the

Environmental Assessment – Appendix II

State's cost of fuel and/or electric power and labor plus \$5.00 per acre-foot for maintenance and capital replacement and as long as such water is not used to irrigate lands or crops which would not be planted if such water were not available. Such approval may not be unreasonably withheld.

8. This agreement is contingent upon the State entering into necessary agreements with the owners of the Gray Davis Dye Creek Preserve on which the ground water wells will be located to assure the authority to construct, operate, and maintain them consistent with this agreement. If such agreements are not obtained, this agreement will have no force or effect.

9. Except as provided otherwise in this agreement, the term of this agreement is 10 years from its commencement date, with automatic 5 year renewals thereafter. If any party does not wish to renew the agreement, it may terminate the agreement upon five years written notice. This notice shall only become effective upon approval from the Department of General Services.

10. In the event that funding by the State to operate the wells in any given year is not available, the Water Company will have no legal obligation to the State under this agreement to provide flows in Mill Creek pursuant to this agreement during that year. It may, however, *in its discretion*, provide water pursuant to paragraph 6.

11. Because boron and salts have been found in water quality samples from one of the wells drilled on the Gray Davis Dye Creek Preserve, well 2261, the parties agree to the monitoring program set forth in Attachment B. The parties agree that the party responsible for the tasks set forth in Attachment B will also be responsible for the costs of those tasks.

12. If during any phase of this project, ground water quality of well 2261 or any other State well is found by the Company to be unsuitable for irrigation purposes or the project is found to cause unmitigable adverse effects, the terms and conditions of the agreement can be suspended if one party requests suspension in writing for a period of time agreeable to all parties until the situation is resolved. If the situation cannot be resolved, the parties agree to terminate the agreement within a reasonable time.

13. Fish and Game and Water Resources will pay for the installation on State or Water Company property of all measuring devices necessary to evaluate pumping operations and quantities of water exchanged. These devices will at a minimum consist of the following equipment at the following locations:

- a. Flow measuring device below the lowest dam on Mill Creek
- b. Instantaneous and totalizing meters on all pump outlets

Environmental Assessment – Appendix II

14. Water Resources will operate and maintain the wells in good operating order.

15. The State agrees, to the extent permitted by law, to indemnify, defend and hold harmless the Water Company from any and all claims and losses in connection with the performance of this agreement to the extent caused by the negligence or omissions of the State with regard to construction, operation, or maintenance of the wells.

16. The parties agree that the Water Company does not by this agreement admit any responsibility or obligation with regard to the fishery in Mill Creek, *and* that Fish and Game does not by this agreement waive any regulatory authority it may have with respect to that fishery, including authority under Section 5937. of the Fish and Game Code or under the Public Trust doctrine. If Fish and Game should assert such authority against the immediate interests of the Water Company in any administrative or judicial proceeding, the Water Company may terminate this agreement upon 30 days written notice to the other parties.

17. Water which is provided to the State under this agreement for use in Mill Creek may, as an incident to that use, be diverted and used downstream by State or State's designee for fish and wildlife purposes, after it has reached the Sacramento River. State assures that such fish and wildlife purposes will not include mitigation for the State Water Project or the Federal Central Valley Project.

The Water Company will cooperate with the State in the acquisition of permits and approvals necessary for such diversion. All costs associated with such subsequent diversions and/or permits and approvals necessary therefore will be the sole responsibility of the State and the Water Company does not hereby assume any responsibility for any costs associated therewith. Nothing herein shall require the Water Company to provide water under this agreement except as provided in Paragraph 5 of this agreement.

18. Dispute resolution

(a) The parties shall establish a working committee of representatives from Water Resources, Fish and Game, and Water Company to meet on a regular basis to discuss and resolve problems. The landowner or its representative shall be invited to participate in such meetings.

(b) If a dispute occurs, an attempt shall be made to resolve the problem by the Directors of Fish and Game and Water Resources and the Board of Directors of the Water Company.

(c) If no resolution can be reached, the matter shall be subject to arbitration. One arbitrator will be selected by Water Resources and Fish and Game, and one by the Water Company. A third will be selected that is mutually acceptable. The arbitration will be conducted according to the rules set forth in the California Civil Code.

Environmental Assessment – Appendix II

(d) The provisions of this paragraph shall not govern in any administrative or judicial proceeding where water rights or regulatory entitlements are at issue.

19. Notices required to be given under this agreement shall be sent to the following:

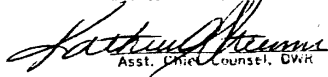
Director
Department of Water Resources
P. O. Box 942836
Sacramento, CA 94236-0001


Director *Inland Fisheries* Division
Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

General Manager
Los Molinos Mutual Water Company
25162 Josephine
Los Molinos, CA 96055

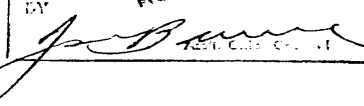
20. The attached standard provisions labeled Attachment C are included and made part of this agreement.

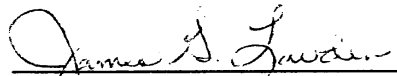
Approved as to legal form
and substance:


Asst. Chief Counsel, DWR

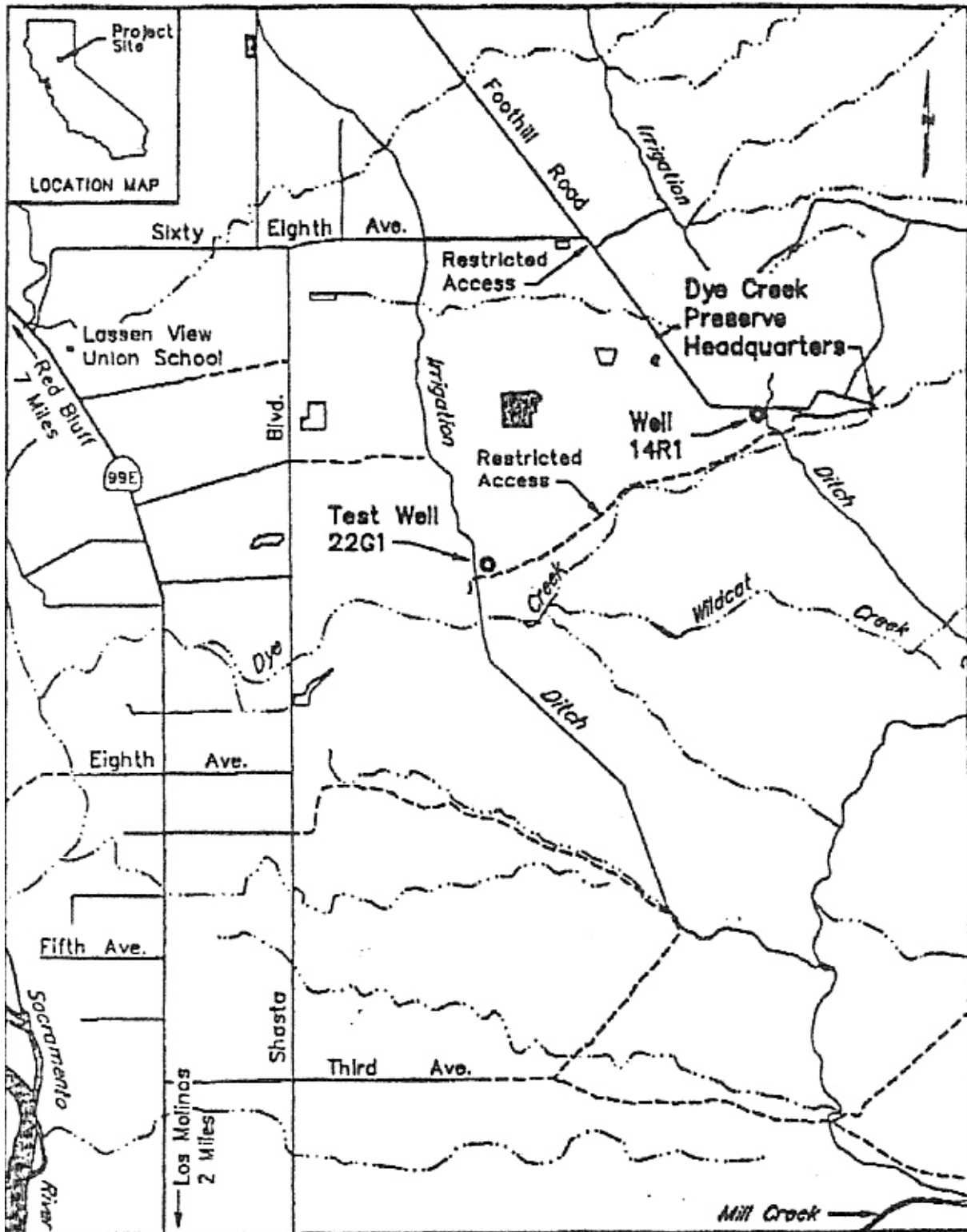

Peter F. Bontadelli, Director
Department of Fish and Game
State of California


David N. Kennedy, Director
Department of Water Resources
State of California

FORM	POLICY	DATE
Department of Fish and Game		
AUG 12 1991		
BY 		


Secretary
Los Molinos Mutual Water
Company


President
Los Molinos Mutual Water
Company



Mill Creek Well Location Map

Map not to scale

Sampling Program

A monitoring program will be conducted to establish baseline conditions for salinity and boron concentrations in the water, soil and crop tissues potentially affected by water from well 2261. This program will be completed during the first two years that the Mill Creek Water Exchange Project is in operation. After this two year period which commences in the fall of 1990 and ends in spring of 1992, the baseline *information will* be evaluated. The program may then be modified by consent of the State and Water company in order to limit monitoring to the essential parameters necessary to determine water quality levels, acceptable soil and crop tissue concentrations of salts, *including boron* and sodium, and to provide long-term continuity of the baseline data.

In addition to providing background levels and seasonal variation in specific mineral constituents, biweekly water testing during the initial operational period will be used to validate the projected blending ratios for dilution of water from well 2261.

Water Quality

A flow measuring device will be installed in the Main Canal downstream of the well discharge to provide instantaneous measurement of flows in the canal and confirm blending ratios. The Water Company will assist the State in installation of an appropriate measuring device. The State will establish rating curves, monitor the device and maintain flow measurement records at the site. During the initial two year period, the State will do the following:

1. Concentrations of boron, sodium and other potentially problematic mineral constituents will be determined for Mill Creek for water and well 2261 discharge on or about May 15, July 15 and September 1 of each year.
2. Concentrations of boron, sodium, and other potentially problematic mineral constituents in the blended irrigation water will be determined between 24 and 48 hours after blending begins and thereafter at intervals not greater than two weeks while well 2261 is in continuous operation. The Water Company will be informed of the results of these water analyses not greater than 10 days after a sample is taken.
3. Flow rates in the canal, well discharge rates, and electrical conductivity upstream and downstream of the well discharge point will be measured and recorded each day that well 2261 is in operation.

For this two year trial period well 2261 will operate under the following criteria:

1. Blended irrigation water containing a boron concentration not exceeding 0.75 mg/l and a SAR value not exceeding 3.0 will be considered acceptable for all irrigated crops.

2. Blended irrigation water of boron concentration 0.75 to 1.0 mg/1 and SAR value of 3.0 to 5.0 indicate increased potential for water-related problems and may require increased monitoring, or other management actions.

3. Blended irrigation water of boron concentration 1.0 mg/1 or greater or SAR value of 5.0 or greater will require specific management action such as alteration of the blending ratio, application of blended water to highly tolerant crops only or a halt in the use of blended water.

The State will be responsible for the collection and analysis of all water quality samples.

Soil

Boron, sodium, SAR, and general salinity series analyses will be done on soil samples collected on or around June 15 and September 15 of each year. For irrigated lands receiving blended well water, nine sample sites will be selected: three sites will represent irrigated pasture; two sites for walnuts; and four for prunes. Soil samples will also be taken for comparative purposes from one pasture, one walnut and one prune site irrigated with Mill Creek water only.

On each sampling date, soil samples will be taken at each of the following depths for every pasture site; surface to 6, 6 to 12, 12 to 24, and 24 to 36 inches. Samples from orchard sites will be the same as for pasture sites except that samples will also be taken at 36 to 48 and 48 to 60 inches. Samples from each depth increment will be a composite, representative of the soil in that portion of the profile, and will be maintained and analyzed separately.

The Water Company, with State's approval, will be responsible for selecting and sampling each site. The State will be responsible for providing laboratory analysis and timely reporting of results for each sample to the Water Company.

Plant Tissue

A composite random leaf sample will be collected by the Water Company at the same locations and times as all orchard samples.

The State will be responsible for laboratory analyses and timely reporting of test results to the Water Company.

STANDARD CLAUSES

SERVICE & CONSULTANT SERVICE CONTRACTS UNDER \$5,000 WITH NONPUBLIC ENTITIES

Workers' Compensation Clause. Contractor affirms that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor affirms that it will comply with such provisions before commencing the performance of the work under this contract.

Claims Dispute Clause. Any claim that Contractor may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources, within thirty days of its accrual. State and Contractor shall then attempt to negotiate a resolution of such claim and process an amendment to this agreement to implement the terms of any such resolution.

National Labor Relations Board Clause. In accordance with Public Contract Code Section 10296, Contractor declares under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the National Labor Relations Board.

Nondiscrimination Clause. During the performance of this contract, the recipient, contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated thereunder (California Administrative Code, Title 2, Sections 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135 - 11.139_5), and the regulations or standards adopted by the awarding State agency to implement such article. Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing and the Awarding State agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours notice, to such of its books, records, accounts, other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Recipient, contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

Performance Evaluation. Contractor's performance under this contract will be evaluated after completion. The evaluation will be filed with the Department of General Services.

Availability of Funds. Work to be performed under this contract is subject to availability of funds through the State's normal budget process.

Audit Clause. The contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under the contract: (Government Code Section 10532).

Payment Retention Clause. Ten percent of any progress payments that may be provided for under this contract shall be withheld per Public Contract Code Sections 10346 and 1.0379 pending satisfactory completion of all services under the contract.

Reimbursement Clause. If applicable, travel and per diem expenses to be reimbursed under this contract shall be at the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations. Contractor's designated headquarters for the purpose of computing such expenses shall be:_____.